

### **REMARKS**

Claims 1-39 are now pending in the application. Claims 16-29 and 36-39 are allowed, while claims 1-15 and 30-35 stand rejected. In response to Applicants' amendment filed October 16, 2006, the Examiner has issued a new Restriction Requirement, requiring election from among five allegedly independent inventions.

No claims are amended. Claims 1-39 remain pending.

### **TIME PERIOD FOR REPLY**

Applicants believe they have a 6 month period from the mailing of the Restriction Requirement to reply without extension fee. Applicants base their position on 35 U.S.C. § 133, establishing that an application becomes abandoned upon failure of the Applicant to prosecute it within 6 months of any action, or within such shorter time, not less than 30 days, as fixed by the Director in such action. Applicants note that no such shorter time is indicated in the present action. Nevertheless, Applicants are replying to the Restriction Requirement within 30 days, as provided in 35 U.S.C. § 133. No extension fee is due.

### **RESTRICTION REQUIREMENT**

After noting the allowability of claims 16-29 and 36-39, and after considering Applicants' arguments in the amendment of October 16, 2006 against the applied references, the Examiner has now issued a new requirement for restriction among five allegedly independent inventions. For the reasons discussed below, Applicants traverse the Restriction Requirement and request reconsideration.

As required by office practice, Applicants elect Invention III, claims 16-29, drawn to a composite article, with traverse.

The new Restriction Requirement is improper because the reasons for insisting upon restriction have not been met. According to the MPEP, every requirement to restrict has two aspects:

1. The reasons why each invention as claimed is either independent or distinct from the others, and
2. The reasons why there would be a serious burden on the Examiner if Restriction is not required. MPEP § 808.

Applicants respectfully submit that the paper mailed August 31, 2007, has neither given the reasons why each invention is independent, nor has it established why there would be a serious burden if restriction is not required.

First, the Restriction Requirement must set out why each invention is independent. Importantly, each relationship between independent or distinct inventions should be separately treated. MPEP § 808.01. In particular, the reasons, relied on by the Examiner should be stated. A mere statement of conclusion is inadequate. *Id.* In light of the above requirements, Applicants respectfully submit the Examiner has not complied with the regulations for establishing a proper restriction. As noted, the claims are divided into five allegedly independent or distinct inventions. The paper of August 31 states that inventions I and III are related and that inventions I and IV are independent. The restrictions between Group I and III, and Group I and IV are properly laid out in that the paper gives reasons why the inventions are independent or distinct. However, for all of the other combinations of inventions, there is no such showing. Applicants respectfully submit the Restriction Requirement was improper and request it be withdrawn.

Further, the paper of August 31 has not established that would be a serious burden if restriction is not required. Rather, section 6 of the paper merely states a burden exists in a conclusory manner. The existence of a serious burden is belied by the fact that the search of all five allegedly independent inventions has already been carried out. Attention is respectfully drawn to the fact that claims 1-39 have been prosecuted to a Final Office Action, the finality having been withdrawn after a Request for Pre-Appeal Review and another Non-Final Office Action given. In fact, the Examining Corps has indicated that claims 16-29 and 36-39 are allowed. Applicants respectfully submit that, having searched and examined all of the alleged inventions and allowed claims to two of them (claims 16-29 and 36-39), the Office can not allege at this stage that there is a serious burden if restriction is not required.

Because the August 31, 2007 paper has not properly laid out the reasons why each invention is either independent or distinct and has not provided a sufficient reason why restriction is required, the requirement for restriction at this time in prosecution is improper. Applicants respectfully request the Restriction Requirement be withdrawn and all of the claims rejoined and examined together.

In light of their traverse of the Restriction Requirement, Applicants have not cancelled claims drawn to the non-elected inventions. Rather, claims 1-15 and 30-39 drawn to the non-elected inventions are listed as "withdrawn."

**AMENDMENTS OF OCTOBER 16, 2006**

Attention is drawn to the Amendment filed October 16, 2006, which is incorporated herein by reference. For the reasons discussed in their amendment of October 16, 2006, Applicants respectfully submit that claims 1-39 are patentable over the art of record. For the reasons given there and in previous prosecution, Applicants respectfully request reconsideration of the claim rejections and passage of all the claims to an allowable condition.

**CONCLUSION**

Further and favorable consideration is urgently solicited. The Examiner is invited to telephone the undersigned if that would be helpful in resolving any issue.

Respectfully submitted,

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